

## § 352.501

Federal service for his term of employment with the agency. However, OPM shall give service credit for subchapter III of chapter 83 of title 5, United States Code, purposes only if the officer complies with the requirements of § 352.404(a)(1).

[33 FR 12433, Sept. 4, 1968, as amended at 51 FR 25188, July 11, 1986]

### Subpart E—Reinstatement Rights After Service Under Section 233(d) and 625(b) of the Foreign Assistance Act of 1961

AUTHORITY: Sec. 625, 75 Stat. 449; 22 U.S.C. 2385; E.O. 10973; 3 CFR 1959–1963 Comp., p. 493; Section 352.508 also issued under 5 U.S.C. 7701 *et seq.*

#### § 352.501 Purpose.

This subpart governs reinstatement authorized by sections 233(d) and 625(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2193(d) and 22 U.S.C. 235(b)).

[36 FR 13897, July 28, 1971]

#### § 352.502 Coverage.

This subpart applies to any of the following serving in a position in the Federal Government:

(a) A person serving in the competitive service under a career or career-conditional appointment.

(b) A person serving under a career appointment in the Senior Executive Service (SES).

(c) A person serving in the excepted service under an appointment without a specific time limitation.

(d) A person appointed or assigned under authority of the Foreign Service Act of 1946, as amended (22 U.S.C. 801 *et seq.*).

[33 FR 12433, Sept. 4, 1968, as amended at 51 FR 25188, July 11, 1986]

#### § 352.503 Definitions.

In this subpart:

(a) *Act* means the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*); and

(b) *Former position* means the position that an employee was occupying at the time of his appointment to a position

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under authority of section 233(d) or section 625(b) of the Act.

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#### § 352.504 Basic entitlement.

Subject to the conditions specified in this subpart, an employee who is appointed to a position under authority of section 233(d) or section 625(b) of the Act is entitled, on termination of that appointment for any reason other than his or her own misconduct or delinquency, to be reinstated in his or her former position or in one of like seniority, status, and pay in the same agency. When the employee's right is to a position in the SES, reinstatement may be to any position in the SES for which the employee is qualified. The employee shall be returned at not less than the SES rate of basic pay as determined under 5 CFR part 534, subpart D at which the employee was being paid immediately before his or her transfer. If the functions with which the employee's former position was identified have been transferred to another agency, the employee's right to reinstatement is in the gaining agency.

[51 FR 25188, July 11, 1986]

#### § 352.505 Proposed termination.

At least 45 days before termination of the appointment of an employee entitled to reinstatement, the agency terminating the employee shall notify the employee and his former agency in writing of the proposed termination. However, notification under this section is not required when:

(a) The termination is at the employee's own request; or

(b) The employee is reinstated without a break in service under an arrangement made between the agencies concerned.

#### § 352.506 Application for reinstatement.

An employee who desires reinstatement shall apply for reinstatement, in writing, no later than 30 days after his appointment under authority of section 233(d) or section 625(b) of the Act is terminated, unless arrangement has been made for his reinstatement without a break in service under § 352.505(b).

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